

## **FACTSHEET**

**TITLE:** **STREET VACATION NO. 03018**, requested by the Housing Authority of Lincoln and R.C. Krueger Development Co., Inc., to vacate 120' of South 22<sup>nd</sup> Street, generally located at the intersection of South 22<sup>nd</sup> Street and Wesley Drive.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: Consent Agenda, 01/07/04  
Administrative Action: 01/07/04

**STAFF RECOMMENDATION:** A finding of conformance with the Comprehensive Plan.

**RECOMMENDATION:** A finding of conformance with the Comprehensive Plan (9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes').

### **FINDINGS OF FACT:**

1. During the review of Tamarin Ridge Addition, South 22<sup>nd</sup> Street was required to be shown to provide a connection between Tamarin Ridge and the Woodbridge housing complex adjacent to the north. The Lincoln Housing Authority, the owner of Woodbridge, objected to this requirement; however, the requirement was included in the Planning Commission and City Council approval of Tamarin Ridge Addition.
2. The Lincoln Housing Authority and R.C. Krueger Development as the abutting property owners have now petitioned for this street vacation.
3. The staff recommendation to now find the vacation of South 22<sup>nd</sup> Street to be in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3, provided, however, that a private roadway is created in place of the right-of-way to be vacated. Condition #1.3 of the street vacation requires the submittal of a final plat showing a private roadway between Lot 1, Block 5, and Lot 1, Block 6, Tamarin Ridge Addition, and that a public access easement be granted over the roadway.
3. On January 7, 2004, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On January 7, 2004, the Planning Commission agreed with the staff recommendation and voted 9-0 to find the proposed right-of-way vacation to be in conformance with the Comprehensive Plan, with the conditions of approval as set forth on p.3.
6. The City Real Estate Division has found that the area should be vacated and deeded to the abutting owner for the nominal amount of \$100.00, with the retention of utility and access easements as requested by the staff (p.12).
7. The City Clerk has determined that the provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied, and the requirement to submit a final plat has also been satisfied.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** April 26, 2004

**REVIEWED BY:** \_\_\_\_\_

**DATE:** April 26, 2004

**REFERENCE NUMBER:** FS\CC\2004\SAV.03018

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for January 7, 2004 PLANNING COMMISSION MEETING

**P.A.S.:** Street and Alley Vacation #03018

**PROPOSAL:** Vacate 120' of South 22<sup>nd</sup> Street.

**LOCATION:** At the intersection of South 22<sup>nd</sup> Street and Wesley Drive

**LAND AREA:** 7,200 square feet

**CONCLUSION:** Provided a private roadway is created in place of the right-of-way to be vacated, this request conforms to the Zoning and Land Subdivision Ordinances, and is consistent with the Comprehensive Plan.

<b><u>RECOMMENDATION:</u></b>	Conforms to the Comprehensive Plan
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** South 22<sup>nd</sup> Street in the Tamarin Ridge Addition subdivision from the north line of Wesley Drive to 120' north of the north line of Wesley Drive where it abuts the Woodbridge Addition.

### **SURROUNDING LAND USE AND ZONING:**

North:	Residential	R-4
South:	Vacant (residential under development)	R-3
East:	Vacant (residential under development)	R-3
West:	Vacant (residential under development)	R-3

**HISTORY:** **December 9, 2003** - Administrative Amendment #03074 to Special Permit #1988 Tamarin Ridge was approved changing South 22<sup>nd</sup> Street to a private roadway provided South 22<sup>nd</sup> Street is vacated.

**June 5, 2003** - The final plat of Tamarin Ridge Addition was approved.

**March 12, 2003** - Change of Zone #3381, Special Permit #1988 for Tamarin Ridge Community Unit Plan (CUP), and Preliminary Plat #02019 were approved. The CUP authorized a residential development consisting of 78 lots for 70 single-family units and 321 multiple-family units.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Land Use Map of the Comprehensive Plan designates this area as Urban Residential.

## **ANALYSIS:**

1. That portion of 22<sup>nd</sup> Street to be vacated was created with the final plat of Tamarin Ridge Addition, and based upon the approved preliminary plat and CUP.
2. During the review of Tamarin Ridge, South 22<sup>nd</sup> Street was required to be shown on the plan in order to provide a connection between it and the Woodbridge housing complex adjacent to the north. It was noted in the review that such connections between adjacent developments were encouraged by the Comprehensive Plan to facilitate pedestrian and vehicular access.
3. The 22<sup>nd</sup> Street connection was opposed by the Lincoln Housing Authority, owner of the Woodbridge complex at the public hearings before the Planning Commission and City Council. The Housing Authority was concerned that the connection would result in increased traffic through the development and exposed residents to a greater risk of accidents. The street right-of-way was required by the boards to be dedicated, despite the objection.
4. The Lincoln Housing Authority approached the Planning Department with the intention of closing the connecting roadway on their property. As a compromise, the Planning Department agreed to the treatment of the road segments on both properties as private roadways with public access permitted.
5. Administrative Amendment #03074 to Special Permit #1988 amended the CUP to allow South 22<sup>nd</sup> Street to be shown as a private roadway. The amendment was approved as it continues to provide pedestrian and vehicular movement between the developments and is still consistent with the Comprehensive Plan.

## **BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA THE FOLLOWING MUST BE COMPLETED:**

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code are met.
- 1.2 A 5' wide utility easement is retained along the north line of the vacated right-of-way to the satisfaction of L.E.S.
- 1.3 The applicant submits a final plat showing a private roadway between Lot 1, Block 5 and Lot 1, Block 6, Tamarin Ridge Addition and granting a public access easement over the roadway.

Prepared by:

Brian Will  
Planner

December 19, 2003

**APPLICANT:** Housing Authority of Lincoln  
5700 R Street  
Lincoln, NE 68502

**OWNER:** R.C. Krueger Development Co., Inc.  
2929 Pine Lake Road  
Lincoln, NE 68516  
423-7377

**CONTACT:** Thomas Huston  
1900 U.S. Bank Building  
233 South 13<sup>th</sup> Street  
Lincoln, NE 68508  
474-6900

## STREET VACATION NO. 03018

### CONSENT AGENDA

### PUBLIC HEARING & ADMINISTRATIVE ACTION

### BEFORE PLANNING COMMISSION:

January 7, 2004

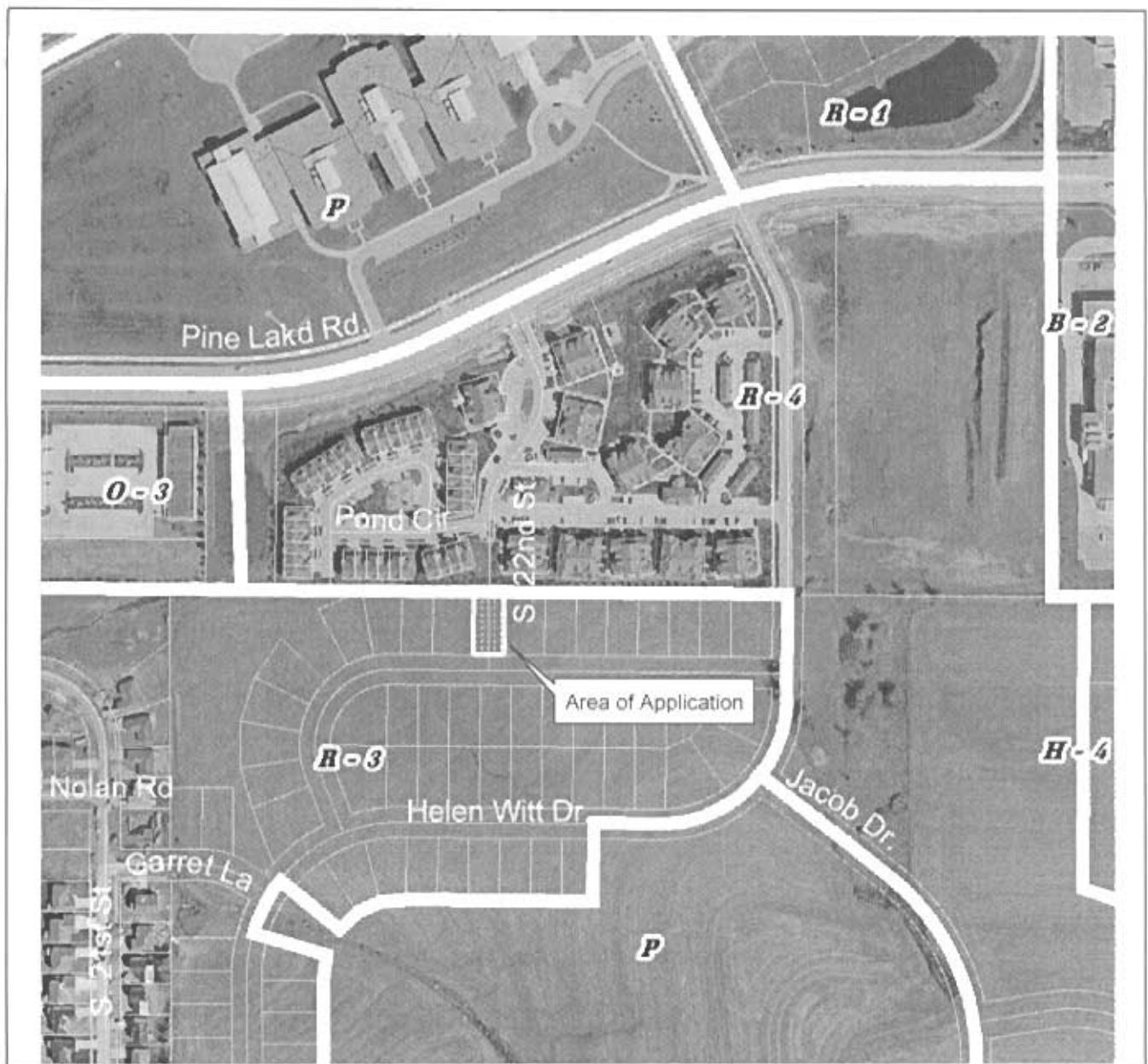
Members present: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3432; SPECIAL PERMIT NO. 2047; COUNTY SPECIAL PERMIT NO. 207 and COUNTY PRELIMINARY PLAT NO. 03010, OAK PRAIRIE; PRELIMINARY PLAT NO. 03008, NORTH CREEK 1<sup>ST</sup> ADDITION; STREET AND ALLEY VACATION NO. 03014; STREET AND ALLEY VACATION NO. 03018; and **WAIVER NO. 03015.****

**Item No. 1.3a, County Special Permit No. 207, and Item No. 1.3b, County Preliminary Plat No. 03010,** were removed from the Consent Agenda at the request of Commissioner Pearson and scheduled for separate public hearing. **Item No. 1.5, Street and Alley Vacation No. 03015,** was removed from the Consent Agenda and scheduled for separate public hearing at the request of Michael Rierden.

Carlson moved to approve the remaining Consent Agenda, seconded by Larson and carried 9-0: Carlson, Carroll, Krieser, Larson, Marvin, Pearson, Bills-Strand, Sunderman and Taylor voting 'yes'.

Note: This is final action on the North Creek 1<sup>st</sup> Addition Preliminary Plat No. 03008 and Waiver No. 03015, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



## Street & Alley Vacation #03018 S. 22nd St. & Wesley Dr.

2002 aerial

### Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile  
Sec. 24 T9N R6E



LAW OFFICES OF  
CLINE, WILLIAMS, WRIGHT, JOHNSON & OLDFATHER, L.L.P.

1900 U.S. BANK BUILDING

233 SOUTH 13TH STREET

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AURORA OFFICE:  
1207 M STREET  
P.O. BOX 510  
AURORA, NEBRASKA 68818  
(402) 694-8314

September 2, 2003

Ms. Joan Ross  
Lincoln City Clerk  
555 South 10th Street  
Lincoln NE 68508

Re: Street Vacation for South 22<sup>nd</sup> Street  
Our File: HAL01-RE020

Dear Ms. Ross:

Consistent with our phone conversation last week, I have prepared and enclose revised Petitions to Vacation Public Way along with the accompanying Information Sheet.

I represent the Housing Authority of the City of Lincoln and Wood Bridge Limited Partnership which owns collectively the Wood Bridge Development located south of Pine Lake Road and north of the Tamarin Ridge Subdivision. As it traverses the Wood Bridge Development, South 22<sup>nd</sup> Street is a private road. My clients have worked with R.C. Krueger Development Co., Inc., which is developing the single-family portion of the Tamarin Ridge Subdivision. The parties collectively desire to vacate South 22<sup>nd</sup> Street as a public right-of-way and amend the special permit approving Tamarin Ridge to reflect that the street will be a private road consistent with South 22<sup>nd</sup> Street to the north.

This letter will also serve as an opinion from this firm that R.C. Krueger Development Co., Inc., a Nebraska corporation, is the record owner of Lot 1, Block 5 in Lot 1, Block 6, Tamarin Ridge Addition, Lincoln, Lancaster County, Nebraska. These two lots are directly adjacent to and abut the right-of-way of South 22<sup>nd</sup> Street. R.C. Krueger Development Co., Inc., is the record owner of such lots.

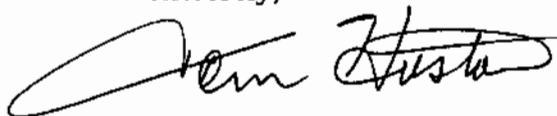
It is my understanding that the City of Lincoln has amended Chapter 14.20 as the only municipal code relating to the vacating of public ways. However, according to my count, that ordinance is not yet effective, thus, this street vacation request is

FILED  
CITY CLERK'S OFFICE  
03 SEP 3 PM 1 18  
CITY OF LINCOLN  
NEBRASKA

Ms. Joan Ross  
September 2, 2003  
Page 2

made under the existing procedure. If my assumption is not correct, please let me know. Should you have any questions, please call.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Huston", written over a horizontal line.

Thomas C. Huston  
For the Firm

cc: Rick Krueger  
Beverly Fleming  
Steve Henrichsen

Enc.



**PETITION TO VACATE PUBLIC WAY**  
**With**  
**RELEASE AND WAIVER OF RIGHTS AND TITLE,**  
**AND QUITCLAIM DEED TO CITY OF LINCOLN**

TO THE HONORABLE CITY COUNCIL OF THE CITY OF LINCOLN, NEBRASKA:

The undersign property owner(s) hereby petition you to vacate the following street, alley, or other public way, commonly known as: (i.e.: Elm Street from 1<sup>st</sup> to 2<sup>nd</sup> St. or East-west alley, from north line of 1<sup>st</sup> St. to the south line of 2<sup>nd</sup> St.)

South 22nd Street in the Tamarin Ridge Subdivision from the North line of Wesley Drive to 120.00 feet north of the North line of Wesley Drive where it abuts the Wood Bridge Addition.

in the CITY OF LINCOLN, NEBRASKA, with the City reserving in said street, alley, or other public way such title, rights, easements, and privileges as it may deem necessary. In consideration of the vacation of the above-described street, alley, or other public way, we, and each of us, for ourselves, our heirs, personal representatives, successors, and assigns, hereby waive and release any and all claims, causes of action, rights of access, and demands of every nature, known or unknown, which may accrue to us, or which we now have or which we may hereafter have as a result of such vacation; and hereby quitclaim unto the City of Lincoln, Nebraska, and to its successors and assigns forever, all right, title, interest, estate, and demand, both at law and in equity, in and to all of said street, alley, or other public way.

TO HAVE AND TO HOLD the above-described street, alley, or other public way together with all tenements, hereditaments, and appurtenances thereto belonging unto the City of Lincoln, Nebraska, and to its successors and assigns forever.

The undersigned hereby represent(s) that he, she, they, or it is(are) the owner(s) of the following described property in Lincoln, Lancaster County, Nebraska, abutting on said street, alley, or other public way: *(Legal description from deed or abstract)*

Lot One (1), Block Five (5), and Lot One (1), Block Six (6), Tamarin Ridge Addition, Lincoln, Lancaster County, Nebraska

DATED this 25<sup>th</sup> day of August, 20 03.

R.C. KRUEGER DEVELOPMENT CO., INC.

By: Richard C. Krueger

Richard C. Krueger, President

**(ALL TITLEHOLDERS OF THE ABOVE DESCRIBED REAL ESTATE MUST SIGN THIS PETITION BEFORE A NOTARY PUBLIC - NOTARIAL ACKNOWLEDGMENTS ON REVERSE)**

(Individual(s) Acknowledgment):

STATE OF \_\_\_\_\_ )  
 ) ss.  
\_\_\_\_\_ COUNTY )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_  
(Please indicate marital status)

(Seal)

\_\_\_\_\_  
Notary Public

(Corporate Acknowledgment)

STATE OF NEBRASKA )  
 ) ss.  
LANCASTER COUNTY )

The foregoing instrument was acknowledged before me on this 20th day of August,  
2003 by Richard C. Krueger, president of R. C. Krueger Development Company, Inc., on behalf of the  
corporation.

(Seal)

  
\_\_\_\_\_  
Notary Public



(Partnership Acknowledgment)

STATE OF \_\_\_\_\_ )  
 ) ss.  
\_\_\_\_\_ COUNTY )

The foregoing instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_, general partner of  
\_\_\_\_\_, on behalf of the partnership.

(Seal)

\_\_\_\_\_  
Notary Public

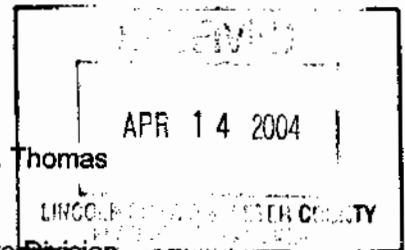
An Information Sheet must be filled out completely by the owners of each parcel abutting the requested vacation. The attached **Petition of Vacate Public Way** must also be filled out completely according to the instructions contained in the Instruction Sheet.

- Prior to third reading of the Vacation Ordinance before the City Council, the property will be appraised. The purchase price of the portion abutting your property must be paid to the City Clerk at that time, or the property will be sold to any other abutting owner willing to pay the purchase price. The Vacation Ordinance will not receive third reading until the full price of the entire public way proposed to be vacated has been paid.*

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SAN. 03018

**INTEROFFICE MEMORANDUM**



TO: Mayor Seng  
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Real Estate Division

ATTENTION:

DATE: April 13, 2004

COPIES TO: Joan Ross  
Marvin Krout  
Dana Roper  
Byron Blum

SUBJECT: Vacation of South 22<sup>nd</sup> Street at  
Wesley Drive

A request has been made to vacate South 22<sup>nd</sup> Street immediately north of Wesley Drive. This is a portion of South 22<sup>nd</sup> Street in the new subdivision south of the Wood Bridge development. South 22<sup>nd</sup> Street is a private roadway south of Pine Lake Road owned by the Lincoln Housing Authority. It runs through the Wood Bridge development to the point of the proposed vacation. It is my understanding the street is being vacated, but will remain in place as a private roadway with full rights of access to the traveling public.

In essence, the vacation of this street and the retention of public access easements simply relieves the public of the maintenance liability and transfers it to the private sector while allowing the owner to control the traffic with speed-retardant devices and the like. As such, the area to be vacated is considered to have very little value. It is recommended, if the area be vacated, it be sold to the abutting property owner for the nominal amount of \$100 and the retention of utility and access easements as requested by staff.

Respectfully submitted,

Clinton W. Thomas  
Certified General Appraiser #990023

dge